The opinion in support of the decision being entered today was <u>not</u> written for publication in a law journal and is <u>not</u> binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte SCOTT ANDERSEN and DANE FISHER

Appeal No. 2004-1406 Application 09/553,094

ORDER DISMISSING APPEAL

MAILED

FEB - 1 2006

U.S. PATENT AND TRADEMARK OFFICE BOARD OF PATENT APPEALS AND INTERFERENCES

Before FLEMING, <u>Chief Administrative Patent Judge</u>, HARKCOM, <u>Vice Chief Administrative Patent Judge</u>, ADAMS, Administrative <u>Patent Judge</u>.

Per curiam.

ه . . ، سخد

On January 15, 2003, appellants filed a Notice of Appeal. On January 17, 2006, appellants filed a communication requesting that this application be "expressly abandoned under 37 C.F.R. §1.138(a) upon entry of the Amendment filed January 6, 2006." Appellants also noted that a continuation application was filed on January 11, 2006.

Accordingly, it is

ORDERED that the appeal filed January 15, 2003, is dismissed.

Appeal No. 2004-1406 Application 09/553,094

The application is being returned to the examiner for further action as may be appropriate.

Michael R. Fleming, Chief Administrative Patent Judge

Gary V. Harkcom, Vice Chief Administrative Patent Judge

Donald E. Adams Administrative Patent Judge **BOARD OF PATENT**

APPEALS AND

INTERFERENCES

Monsanto Company 800 N. Lindbergh Blvd. Mailzone E2NA St. Louis, MO 63167

dem